

## § 134.512

## 13 CFR Ch. I (1–1–00 Edition)

(1) A statement that OHA has jurisdiction over the case pursuant to § 134.102(g);

(2) Identification of the administrative proceeding for which you are seeking an award;

(3) A statement that you have prevailed, and a list of each issue in which you claim the position of SBA was not substantially justified;

(4) Your status as an individual, owner of an unincorporated business, partnership, corporation, association, organization, or unit of local government;

(5) Your net worth and number of employees as of the date the administrative proceeding was initiated, or a statement that one or both of these eligibility requirements do not apply to you;

(6) The amount of fees and expenses you are seeking, along with the invoice

or billing statement from each service provider;

(7) A description of any affiliates (as that term is defined in § 134.408), or a statement that no affiliates exist;

(8) A statement that the application and any attached statements and exhibits are true and complete to the best of your knowledge and that you understand a false statement on these documents is a felony punishable by fine and imprisonment under 18 U.S.C. 1001; and

(9)(i) Your name and address;

(ii) Your signature, or the signature of either a responsible official or your attorney; and

(iii) The address and telephone number of the person who signs the application.

(b) You should follow this chart to determine which further documents must be included with your application:

Party	Required documents
(1) Individual, owner of unincorporated business, partnership, corporation, association, organization, or unit of local government.	(1) Net worth exhibit.
(2) Organization qualified as tax-exempt under 26 U.S.C. 501(c)(3).	(2) Copy of a ruling by the Internal Revenue Service that you qualify as a 501(c)(3) organization or Statement that you were listed in the current edition of IRS Bulletin 78 as of the date the administrative proceeding was initiated.
(3) Tax-exempt religious organization not required to obtain a ruling from the Internal Revenue Service on its exempt status.	(3) Description of your organization and the basis for your belief you are exempt.
(4) Cooperative association as defined in 12 U.S.C. 1141j(a) ...	(4) Copy of your charter or articles of incorporation, and Copy of your bylaws.

### § 134.512 What must a net worth exhibit contain?

(a) A net worth exhibit may be in any format, but it must contain:

(1) List of all assets and liabilities for you and each affiliate in detail sufficient to show your eligibility;

(2) Aggregate net worth for you and all affiliates; and

(3) Description of any transfers of assets from, or obligations incurred by, you or your affiliates within one year prior to the initiation of the administrative proceeding which reduced your net worth below the eligibility ceiling, or a statement that no such transfers occurred.

(b) The net worth exhibit must be filed with your application, but will not be part of the public record of the

proceeding. Further, in accordance with the provisions of § 134.204(g), you need not serve your net worth exhibit on other parties.

### § 134.513 What documentation do I need for fees and expenses?

You must submit a separate itemized statement or invoice for the services of each provider for which you seek reimbursement. Each separate statement or invoice must contain:

(a) The hours worked in connection with the proceeding by each provider supplying a billable service;

(b) A description of the specific services performed by each provider;

(c) The rate at which fees were computed for each provider;

(d) The total charged by the provider on that statement or invoice; and

(e) The provider's verification that the statement or invoice is true to the best of his or her knowledge and that he or she understands that a false statement is punishable by fine and imprisonment under 18 U.S.C. 1001.

**§ 134.514 What deadlines apply to my application for an award and where do I send it?**

After you have prevailed in an administrative proceeding or in a discrete issue therein, you must serve, and file with OHA, your written application for an award, and its attachments, no later than 30 days after the decision in the administrative proceeding becomes final under § 134.227. The deadline for filing an application for an award may not be extended. If SBA or another party requests review of the decision in the underlying administrative proceeding, your request for an award for fees and expenses may still be filed, but it will not be considered by the ALJ until a final decision is rendered.

**§ 134.515 How will proceedings relating to my application for fees and expenses be conducted?**

Proceedings will be conducted in accordance with the provisions in subpart B of this part.

**§ 134.516 How will I know if I receive an award?**

The ALJ will issue an initial decision on the merits of your request for an award which will become final in 30 days unless a request for review is filed under § 134.228. The decision will include findings on your eligibility, on whether SBA's position was substantially justified, and on the reasonableness of the amount you requested. Where applicable, there will also be findings on whether you have unduly protracted the proceedings or whether other circumstances make an award unjust, and an explanation of the reason for the difference, if any, between the amount requested and the amount awarded. If you have sought an award against more than one federal agency, the decision will allocate responsibility

for payment among the agencies with appropriate explanation.

**§ 134.517 May I seek review of the ALJ's decision on my award?**

You may request review of the ALJ's decision on your award by filing a request for review in accordance with § 134.228. You may seek judicial review of a final decision as provided in 5 U.S.C. 504(c)(2).

**§ 134.518 How are awards paid?**

If you are seeking payment of an award, you must submit a copy of the final decision, along with your certification that you are not seeking judicial review of either the decision in the adversary adjudication, or of the award, to the following address: Chief Financial Officer, Office of Financial Operations, SBA, P.O. Box 205, Denver, CO 80201-0205. SBA will pay you the amount awarded within 60 days of receipt of your request unless it is notified that you or another party has sought judicial review of the underlying decision or the award.

**PART 136—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE SMALL BUSINESS ADMINISTRATION**

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